

**Notice of Allowability**

Application No.

10/725,871

Examiner

Hung T. Vy

Applicant(s)

STEWART ET AL.

Art Unit

2821

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/02/2004.
2. ☒ The allowed claim(s) is/are 1-7.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 11/02/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 11/28/05
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Shih-Chao Chen* 11/28/05  
**SHIH-CHAO CHEN**  
**PRIMARY EXAMINER**

### **Election/Restrictions**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-7, drawn to a method of calibrating a multichannel optoelectronic assembly, classified in class 372, subclass 34.
  - II. Claims 8-12, drawn to a method of operating a mulichannel optoelectronic assembly, classified in class 372, subclass 34.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because accessing from memory within the optoelectronic assembly a control value associated with a calibrated operating temperature does not need to durably storing a first value and second value corresponding to the adjusted temperature control. The subcombination of group I has separate utility such as calibrating a temperature rather than a general of operating in group II.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group I, II, and they have acquired a separate status in the art because of their recognized divergent subject matter restriction for examination purposes as indicated is proper.

During a telephone conversation with R Burns Israelsen on 11/14/2005, provisional election was made without traverse to prosecute the invention of Group I, claims 1-7.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### **Examiner's Amendment**

2. An examiner's amendment to the record appears below. Should the changes and /or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.3.12. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. The following claim has been amended upon agreement by applicant during a telephone conversation with Mr. R Burns Israelsen on 11/21/05.

Cancel claims 8-12

### **Reasons for Allowance**

4. Claims 1-7 are allowed.

The following is an examiner's statement of reason for allowance:

Claims 1-6 are allowed since the prior made of record and considered pertinent to the applicant's disclosure does not teach or suggest the claimed limitations. Kish, JR. et al. (U.S. Pub. 2005/0018720) or Gupta et al. (U.S. Pub. No. 2004/0036888), taken individually or in combination, do not teach the claimed invention as a method of calibrating a multichannel Optoelectronic assembly, comprising, along with all the other claimed feature, adjusting the temperature until a difference between an output wavelength of the optoelectronic assembly and

the first target wavelength and second target wavelength is less than a predefined value, and durably string a first value and second value corresponding to the adjusted temperature control as a first control value and second control value associated with the first target wavelength and second target wavelength.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Vy whose telephone number is 571-2721954. The examiner can normally be reached on 8.30am - 5.30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hung Vy  
2821  
November 26, 2005.

*Shih-Chao Chen* 11/28/05  
SHIH-CHAO CHEN  
PRIMARY EXAMINER

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